

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY APRIL 2, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 763

Introduced by Assembly Member Liu

February 19, 2003

An act to amend Section 1798.85 of the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 763, as amended, Liu. Privacy: social security numbers.

Existing law prohibits a person or entity, except as specified, from publicly posting or displaying an individual's social security number, printing that social security number on a card required for the individual to access products or services or on materials mailed to the individual, or otherwise requiring an individual to transmit or use that social security number.

This bill would additionally prohibit a social security number, or any part of that number, that is otherwise permitted to be mailed from being printed on a postcard or visible on the envelope or without the envelope having been opened. ~~This bill would also prohibit the use of a disguised social security number, as defined, in place of social security number in a manner prohibited by the provisions described above.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1798.85 of the Civil Code is amended to read:

1798.85. (a) A person or entity, not including a state or local agency, may not do any of the following:

(1) Publicly post or publicly display in any manner an individual's social security number. "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

(2) Print an individual's social security number on any card required for the individual to access products or services provided by the person or entity.

(3) Require an individual to transmit his or her social security number over the Internet, unless the connection is secure or the social security number is encrypted.

(4) Require an individual to use his or her social security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site.

(5) Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires the social security number to be on the document to be mailed. Notwithstanding this paragraph, social security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend or terminate an account, contract or policy, or to confirm the accuracy of the social security number. A social security number that is permitted to be mailed under this section, or any part of that number, may not be printed on a postcard or visible on the envelope or without the envelope having been opened.

~~(6) (A) Use a disguised social security number in place of social security number, in a manner prohibited by this subdivision.~~

~~(B) For purposes of this paragraph, "disguised social security number" means any alteration of a social security number. This includes, but is not limited to, modifying a social security number in the following ways:~~

~~(i) Substituting a letter, number, or character for hyphens in a social security number.~~

~~(ii) Inserting random letters, numbers, or characters into a social security number.~~

~~(iii) Transposing the numbers of a social security number.~~

~~(iv) Combining any of the modifications described in this subparagraph.~~

(b) Except as provided in subdivision (c), subdivision (a) applies only to the use of social security numbers on or after July 1, 2002.

(c) Except as provided in subdivision (f), a person or entity, not including a state or local agency, that has used, prior to July 1, 2002, an individual's social security number in a manner inconsistent with subdivision (a), may continue using that individual's social security number in that manner on or after July 1, 2002, if all of the following conditions are met:

(1) The use of the social security number is continuous. If the use is stopped for any reason, subdivision (a) shall apply.

(2) The individual is provided an annual disclosure, commencing in the year 2002, that informs the individual that he or she has the right to stop the use of his or her social security number in a manner prohibited by subdivision (a).

(3) A written request by an individual to stop the use of his or her social security number in a manner prohibited by subdivision (a) shall be implemented within 30 days of the receipt of the request. There shall be no fee or charge for implementing the request.

(4) A person or entity, not including a state or local agency, shall not deny services to an individual because the individual makes a written request pursuant to this subdivision.

(d) This section does not prevent the collection, use, or release of a social security number as required by state or federal law or the use of a social security number for internal verification or administrative purposes.

(e) This section does not apply to documents that are recorded or required to be open to the public pursuant to Chapter 3.5 (commencing with Section 6250), Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of, or Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code. This section does not apply to records that are required by statute, case law, or California Rule of Court, to be made available to the

1 public by entities provided for in Article VI of the California
2 Constitution.

3 (f) (1) In the case of a health care service plan, a provider of
4 health care, an insurer or a pharmacy benefits manager, a
5 contractor as defined in Section 56.05, or the provision by any
6 person or entity of administrative or other services relative to
7 health care or insurance products or services, including third-party
8 administration or administrative services only, this section shall
9 become operative in the following manner:

10 (A) On or before January 1, 2003, the entities listed in
11 paragraph (1) of subdivision (f) shall comply with paragraphs (1),
12 (3), (4), and (5) of subdivision (a) as these requirements pertain to
13 individual policyholders or individual contract holders.

14 (B) On or before January 1, 2004, the entities listed in
15 paragraph (1) of subdivision (f) shall comply with paragraphs (1)
16 to (5), inclusive, of subdivision (a) as these requirements pertain
17 to new individual policyholders or new individual contractholders
18 and new groups, including new groups administered or issued on
19 or after January 1, 2004.

20 (C) On or before July 1, 2004, the entities listed in paragraph
21 (1) of subdivision (f) shall comply with paragraphs (1) to (5),
22 inclusive, of subdivision (a) for all individual policyholders and
23 individual contractholders, for all groups, and for all enrollees of
24 the Healthy Families and Medi-Cal programs, except that for
25 individual policyholders, individual contractholders and groups in
26 existence prior to January 1, 2004, the entities listed in paragraph
27 (1) of subdivision (f) shall comply upon the renewal date of the
28 policy, contract, or group on or after July 1, 2004, but no later than
29 July 1, 2005.

30 (2) A health care service plan, a provider of health care, an
31 insurer or a pharmacy benefits manager, a contractor, or another
32 person or entity as described in paragraph (1) of subdivision (f)
33 shall make reasonable efforts to cooperate, through systems
34 testing and other means, to ensure that the requirements of this
35 article are implemented on or before the dates specified in this
36 section.

37 (3) Notwithstanding paragraph (2), the Director of the
38 Department of Managed Health Care, pursuant to the authority
39 granted under Section 1346 of the Health and Safety Code, or the
40 Insurance Commissioner, pursuant to the authority granted under

1 Section 12921 of the Insurance Code, and upon a determination of
2 good cause, may grant extensions not to exceed six months for
3 compliance by health care service plans and insurers with the
4 requirements of this section when requested by the health care
5 service plan or insurer. Any extension granted shall apply to the
6 health care service plan or insurer's affected providers, pharmacy
7 benefits manager, and contractors.

8 (g) If a federal law takes effect requiring the United States
9 Department of Health and Human Services to establish a national
10 unique patient health identifier program, a provider of health care,
11 a health care service plan, a licensed health care professional, or
12 a contractor, as those terms are defined in Section 56.05, that
13 complies with the federal law shall be deemed in compliance with
14 this section.

